



DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[Docket No. ICEB-2022-0003]

RIN 1653-ZA24

Employment Authorization for South Sudanese F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Humanitarian Crisis in South Sudan

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is the Republic of South Sudan (South Sudan), regardless of country of birth (or individuals having no nationality who last habitually resided in South Sudan), and who are experiencing severe economic hardship as a direct result of the humanitarian crisis in South Sudan. The Secretary is taking action to provide relief to these South Sudanese students who are lawful F-1 nonimmigrant students so the students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F-1 nonimmigrant student status. The Department of Homeland Security (DHS) will deem an F-1 nonimmigrant student who receives employment authorization by means of this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This F-1 notice is effective **[Insert date of publication in the Federal Register]**, through November 3, 2023

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC 20536-5600; e-mail: sevp@ice.dhs.gov, telephone: (703) 603-3400. This is not a toll-free number. Program information can be found at <https://www.ice.gov/sevis/>.

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary is exercising his authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F-1 nonimmigrant students whose country of citizenship is South Sudan, regardless of country of birth (or individuals having no nationality who last habitually resided in South Sudan), who are present in the United States in lawful F-1 nonimmigrant student status on the date of publication of this notice, and who are experiencing severe economic hardship as a direct result of the humanitarian crisis in South Sudan due to many years of armed conflict leading to the destruction of people's livelihoods. Effective with this publication, suspension of the employment limitations is available through November 3, 2023, for those who are in lawful F-1 nonimmigrant status. DHS will deem an F-1 nonimmigrant student granted employment authorization through the notice to be engaged in a "full course of study" for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice.¹ See 8 CFR 214.2(f)(6)(i)(F).

¹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of November 3, 2023, provided the student satisfies the minimum

Who is covered by this notice?

This notice applies exclusively to F-1 nonimmigrant students who meet all of the following conditions:

(1) Are a citizen of South Sudan regardless of country of birth (or an individual having no nationality who last habitually resided in South Sudan);

(2) Were lawfully present in the United States in F-1 nonimmigrant status under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C.

1101(a)(15)(F)(i), on the date of publication of this notice;

(3) Are enrolled in an academic institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment for F-1 nonimmigrant students;

(4) Are maintaining F-1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the humanitarian crisis in South Sudan.

This notice applies to F-1 nonimmigrant students in an approved private school in kindergarten through grade 12, public school in grades 9 through 12, and undergraduate and graduate education. An F-1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice.

Why is DHS taking this action?

DHS is taking action to provide relief to South Sudanese F-1 nonimmigrant students experiencing severe economic hardship as a result of the humanitarian crisis in South Sudan. DHS has reviewed country conditions in South Sudan. Based on the review, including input received from the U.S. Department of State (DOS), DHS is

course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to U.S. Immigration and Customs Enforcement (ICE) coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Feb. 2022).

taking action to allow eligible F-1 nonimmigrant students from South Sudan, to request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

Since February 2020, limited implementation of the September 2018 Revitalized Agreement on the Resolution of the Conflict (R-ARCSS) “has hindered improvements in the protection of civilians and prospects for long-term peace” in South Sudan.² Moreover, ongoing political disputes and disagreements between the two main signatories – the Sudan People’s Liberation Movement (SPLM), led by the President Salva Kiir Mayardit, and the Sudan People’s Liberation Movement-Army in Opposition (SPLM/A-IO), led by the First Vice-President, Riek Machar Teny – “has widened existing political, military and ethnic divisions in the country and has led to multiple incidents of violence” between the two parties.³ In addition, political divisions among the non-signatories⁴ to the R-ARCSS have made it more difficult to negotiate a comprehensive peace.⁵ Moreover, the SPLM/A-IO has also begun to break apart and new splinter groups have formed,⁶ resulting in increased violence.⁷

In June 2021, the United Nations (UN) reported that “the overall implementation of the R-ARCSS is progressing slowly.”⁸ Political gridlock over

² Rep. of the Panel of Experts on South Sudan (2020), transmitted by Letter dated 14 April 2021 from the Panel of Experts on South Sudan Established Pursuant to Resolution 2206 (2015) Concerning South Sudan to the President of the Security Council, at 2, UN Doc. S/2021/365 (Apr. 15, 2021) (hereinafter Panel of Experts on South Sudan).

³ *Id.*

⁴ Previously united under one umbrella group – the South Sudan Opposition Movements Alliance – non-signatories of the R-ARCSS have divided into two factions, one led by General Thomas Cirillo Swaka, the leader of the National Salvation Front (NAS), and another led by General Pagan Amum and General Paul Malong Awan Anei. *See id.* at 9.

⁵ *See id.*

⁶ *Id.* at 11.

⁷ Dan Watson, *Surface Tension: ‘Communal’ Violence and Elite Ambitions in South Sudan*, Armed Conflict Location & Event Data, (Aug. 19, 2021). <https://acleddata.com/2021/08/19/surface-tension-communal-violence-and-elite-ambitions-in-south-sudan/>.

⁸ UN Security Council, *Marking a Decade of Independence, South Sudan Faces Slow Progress, Lingering Violence, Secretary-General’s Special Representative Tells Security Council*, UN Office for the Coordination of Humanitarian Affairs (OCHA) Services, June 22, 2021. <https://reliefweb.int/report/south-sudan/marking-decade-independence-south-sudan-faces-slow-progress-lingering-violence>.

implementation of the political and security aspects of the R-ARCSS have also contributed to insecurity in South Sudan.⁹ The UN further assessed that weak or absent State governance has allowed “perennial communal and ethnic cleavages,” while entrenched insecurity contributes to a vicious cycle of livestock raiding and subsequent food insecurity. A weakened rule of law and flagging economic conditions have resulted in increased criminality and the targeting of humanitarian workers.¹⁰

South Sudan continues to face increased violence¹¹ from government security forces and armed groups.¹² In 2020, the United Nations (UN) and international organizations reported on “widespread killings, mutilations, and sexual violence, disproportionately committed by government forces but also by the National Salvation Front (NAS), a key opposition group.”¹³ In February 2021, the UN Commission on Human Rights in South Sudan noted that armed clashes at the local level also resulted in the mass displacement of the civilian population, particularly women and girls.¹⁴ Children are among those feeling the greatest impact of this violence, exposing them to protection risks and life-threatening diseases.¹⁵ Moreover, sexual violence—including rape, gang rape, abduction, sexual slavery, and sexual mutilation remain “consistent features of the conflict in South Sudan since 2013, and are now being replicated in conflict at the local level.”¹⁶

⁹ Panel of Experts on South Sudan, *supra* note 3, at 2.

¹⁰ Marking a Decade of Independence, South Sudan Faces Slow Progress, Lingering Violence, Secretary-General’s Special Representative Tells Security Council, *supra*.

¹¹ *Id.*

¹² Panel of Experts on South Sudan, *supra* note 3 at 15.

¹³ U.S. Dep’t of State, *2020 Country Reports on Human Rights Practices: South Sudan* (Mar. 31, 2021), <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/south-sudan/>.

¹⁴ Rep. of the Comm. on Human Rights in South Sudan, at 14, UN Doc. A/HRC/46/53 (Feb. 4, 2021), https://www.ecoi.net/en/file/local/2046934/A_HRC_46_53_E.pdf.

¹⁵ UN Children’s Fund (UNICEF), *South Sudan Humanitarian Situation Report No. 163: 1-30*, UNICEF, Dec. 30, 2021, pg. 2. UNICEF South Sudan Humanitarian Situation Report No. 163: 1-30 November 2021 - South Sudan | ReliefWeb.

¹⁶ Rep. of the Comm. on Human Rights in South Sudan, *supra* note 13, at 14.

In addition, humanitarian organizations continue to face security and bureaucratic barriers that affect the delivery and access of humanitarian aid and pose “serious personal risks to aid workers.”¹⁷ Access is difficult due to flooding, violence, and Coronavirus Disease 2019 (COVID-19) restrictions. As a result, South Sudan is also facing “one of the direst food crises the country has faced since its independence in 2011.”¹⁸ Moreover, chronic food shortages, a deepening economic crisis, insecurity, and limited agricultural production led to high levels of acute malnutrition.¹⁹ South Sudan’s health care infrastructure remains inadequate.²⁰ Facilities are limited and often inaccessible and facing staffing shortages amongst ongoing insecurity and violence.²¹

The United States Agency for International Development (USAID) estimates that over 8 million people in South Sudan need humanitarian assistance and 2 million people are internally displaced. In addition, over 800,000 people have been affected by floods and more than 2 million are refugees in neighboring countries.²²

The lack of adequate financial resources and logistical support for the unification, training, and deployment of the South Sudan armed forces, as outlined in the R-ARCSS, remains a significant security challenge.²³ A key component of the R-ARCSS is the long-term garrisoning (cantonment), registration, screening, selection, training and redeployment of opposition forces and the creation of a unified army of 83,000 soldiers. South Sudanese military cantonment sites and training centers²⁴ have made little progress

¹⁷ Panel of Experts on South Sudan, *supra* note 3, at 16.

¹⁸ *Id.* at 15.

¹⁹ UN Office for the Coordination of Humanitarian Affairs (UNOCHA), *South Sudan Humanitarian Fund Annual Report 2020*, July 6, 2021, pg. 7. <https://reliefweb.int/report/south-sudan/south-sudan-humanitarian-fund-annual-report-2020>.

²⁰ World Health Organization (WHO), *South Sudan – Strengthening primary health care in fragile settings*, WHO Newsroom, May 20, 2021. <https://www.who.int/news-room/feature-stories/detail/south-sudan-2021>.

²¹ *Id.*

²² U.S. Agency for International Development, *South Sudan – Crisis, Fact Sheet #2 Fiscal Year 2022*, OCHA Services, Jan. 19, 2022. <https://reliefweb.int/report/south-sudan/south-sudan-complex-emergency-fact-sheet-2-fiscal-year-fy-2022>.

²³ Report of the Commission on Human Rights in South Sudan, *supra* note 13, at 4.

²⁴ *Report of the Commission on Human Rights in South Sudan*, UN Doc, A/HRC/43/56 Jan. 31, 2020, pg. 6. https://www.ecoi.net/en/file/local/2025863/A_HRC_43_56_E.pdf.

in establishing an unified force, further contributing to a security vacuum in the country.²⁵ Security forces in the few cantonment sites often lack access to basic services, such as food, water, sanitation and health care.²⁶ In addition, the proliferation and availability of small amounts of ammunition across South Sudan²⁷ has “enabled armed groups not associated with government security forces, such as local militias and cattle-raiding groups, to perpetuate instability” in the country.²⁸

DOS noted in its 2020 Country Report on Human Rights Practices for South Sudan that there were reports that the government, or its agents, committed numerous arbitrary or unlawful killings. Likewise, security forces, opposition forces, armed militias affiliated with the government and the opposition, and ethnically based groups reportedly were also responsible for widespread extrajudicial killings.²⁹

Moreover, in 2020, ongoing violence in Jonglei and the Greater Pibor Administration Area was “the worst recorded since the outbreak of the national conflict in South Sudan in December 2013, with waves of attacks and reprisals that left hundreds of South Sudanese women, men and children dead, maimed or destitute.”³⁰ In February 2021, the UN assessed that “gross human rights violations and abuses amounting to serious violations of international humanitarian law were committed in the context of localized conflicts by armed militias affiliated to the primary parties in conflict—the SSPDF [South Sudan People's Defence Forces] and SPL[M]A-IO.”³¹ In 2021, Upper Nile, Warrap, Lakes, Central Equatoria, and Western Equatoria states were particularly

²⁵ Rep. of the Comm. on Human Rights in South Sudan, *supra* note 13, at 3 (Feb. 4, 2021).

²⁶ *Id.* at 4.

²⁷ Panel of Experts on South Sudan, *supra* note 3, at 21.

²⁸ *Id.*

²⁹ 2020 Country Reports on Human Rights Practices (<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/>): South Sudan, *supra* note 12.

³⁰ Rep. of the Comm. on Human Rights in South Sudan *supra* note 13, at 7.

³¹ *Id.* at 9.

affected by violence “resulting in displacement, increased protection risks and rights violations, as well as diminished humanitarian access.”³²

Violence Against Children

Children in South Sudan continued to be victims of what the Office of the Special Representative of the Secretary General for Children and Armed Conflict refers to as “grave violations” against children,³³ including forced recruitment, abduction, maiming and killing, and sexual violence.³⁴ According to the United Nations Security Council’s 2021 Children and Armed Conflict in South Sudan report, children were recruited by the SPLM/A-IO, the SSPDF, and the South Sudan National Police Service.³⁵ In addition, hundreds of girls and boys continue to be abducted in South Sudan³⁶ for forced labor and/or forced military recruitment, and increased sexual violence.³⁷ Child abuse, including sexual abuse, was reportedly also widespread in South Sudan.³⁸ Child rape occurred frequently in the context of child, early, and forced marriage, and within the commercial sex industry in urban centers; armed groups also perpetrated it.³⁹

Sexual and Gender-Based Violence

Sexual and gender-based violence remains high. As of September 2020, South Sudan had seen an estimated 88 percent increase in the number of women victims of

³² UN Security Council, *Situation in South Sudan*, UN Doc. S/2021/784, Sept. 9, 2021, pg. 4. https://www.ecoi.net/en/file/local/2060682/S_2021_784_E.pdf.

³³ To better monitor, prevent, and end these attacks, the United Nations Security Council has identified and condemned six grave violations against children in times of war: Killing and maiming of children; recruitment or use of children in armed forces and armed groups; attacks on schools or hospitals; rape or other grave sexual violence; abduction of children; and denial of humanitarian access for children, Office of the Special Representative of the Secretary General for Children and Armed Conflict, *The Six Grave Violations*, UN, <https://childrenandarmedconflict.un.org/six-grave-violations/> (last visited on Feb. 9, 2022).

³⁴ UN Security Council, *Children and Armed Conflict in South Sudan*, UN Doc. A/75/873-S/2021/437, May 6, 2021, pg. 21.

https://www.un.org/ga/search/view_doc.asp?symbol=S/2021/437&Lang=E&Area=UNDOC.

³⁵ *Id.*

³⁶ Rep. of the Comm. on Human Rights in South Sudan, *supra* note 13, at 7 (Feb. 4, 2021).

³⁷ Human Rights Division United Nations Mission in South Sudan, *Brief on Violence Affecting Civilians*, Sept. 1, 2021, pg. 2.

https://unmiss.unmissions.org/sites/default/files/unmiss_hrd_third_quarterly_brief_2021.pdf.

³⁸ 2020 Country Reports on Human Rights Practices, *supra*, sec. 5.

³⁹ *Id.*

conflict-related sexual violence since the previous quarter and a 119 percent rise in the number of abductions since the previous quarter.⁴⁰

In addition, rural communities often abducted women and children during cattle raids.⁴¹ Girls who are abducted have been reportedly “forced into sexual slavery, tortured and repeatedly gang raped.”⁴² Perpetrators of forced marriage and sexual violence include security forces, community-based militias, civil defense groups, and other armed groups.⁴³

Food Insecurity and Floods

South Sudan remains one of the most food-insecure countries in the world.⁴⁴ The overall food security situation deteriorated towards the end of 2020.⁴⁵ This deteriorating security situation and COVID-19-related restrictions have hampered humanitarian organizations’ ability to deploy and respond to medical and other emergency needs in the area.⁴⁶ Between April and July 2021, an estimated 7.2 million people, 60 percent of the population, faced high levels of acute food insecurity.⁴⁷ Malnutrition in particular remains a pressing issue in South Sudan, with approximately 1.9 million women and children acutely malnourished.⁴⁸ Malnutrition levels among children under five years of age are above emergency thresholds in many parts of the country, and 1.4 million children are estimated to be acutely malnourished.⁴⁹ The main factors driving food

⁴¹ Rep. of the Comm. on Human Rights in South Sudan, *supra* note 13, at 13 (Feb. 4, 2021).

⁴¹ 2020 Country Reports on Human Rights Practices, *supra*, section 5.

⁴³ Rep. of the Comm. on Human Rights in South Sudan, *supra* note 13, at 7.

⁴³ UN Refugee Agency, *Position on Returns to South Sudan*, UNHCR, October 2021, pg. 7. <https://www.refworld.org/pdfid/617676f04.pdf>.

⁴⁴ South Sudan Humanitarian Fund Annual Report 2020, *supra*, pg. 7.

⁴⁵ *Id.*

⁴⁶ European Commission's Directorate-General for European Civil Protection and Humanitarian Aid Operations, *South Sudan - Violence, Floods, Displacement in Jonglei*, ECHO Daily Flash, August 11, 2020. <https://reliefweb.int/report/south-sudan/south-sudan-violence-floods-displacement-jonglei-dg-echo-ocha-media-echo-daily>.

⁴⁷ Situation in South Sudan, *supra*, pg. 6.

⁴⁸ World Food Programme (WFP), *South Sudan Situation Report*, WFP Situation Report No. 296, October 29, 2021, pg.1. <https://reliefweb.int/report/south-sudan/wfp-south-sudan-situation-report-296-29-october-2021>.

⁴⁹ Situation in South Sudan, *supra*, pg. 6.

insecurity and malnourishment are the ongoing conflict, flooding, and COVID-19.⁵⁰

Moreover, COVID-19 mitigation efforts also disrupted access to supply chains for commercial and humanitarian assistance, further affecting food insecurity.⁵¹

Flooding has also taken its toll. In October 2021, the World Food Programme reported that South Sudan faced a third year of unprecedented flooding.⁵² The flooding was exacerbated by standing water from major floods in the previous two years, most of which had not fully receded.⁵³ The most recent flooding has led to “widespread displacement, destruction of livelihoods and contamination of water sources, compounding existing insecurity issues in many regions.”⁵⁴ The floods also destroyed crops and loss of livestock and created a breeding ground for life-threatening waterborne diseases, including typhoid and cholera.⁵⁵

Healthcare and COVID-19

Access to healthcare is an issue especially during the COVID-19 pandemic. In August 2020, the United Nations High Commissioner for Refugees (UNHCR) reported that “about 56 percent of South Sudan's population does not have access to primary healthcare services.”⁵⁶ In addition, less than 2 percent of South Sudan’s national budget is spent on healthcare,⁵⁷ resulting in poorly equipped health facilities with limited staff.⁵⁸ South Sudan also continues to face “regular outbreaks of infectious diseases like

⁵⁰ South Sudan Humanitarian Fund Annual Report 2020, *supra*, pg. 7.

⁵¹ *Id.*

⁵² WFP South Sudan Situation Report, *supra*, pg.1.

⁵³ REACH Initiative, *South Sudan: Flooding Trends in Counties of Particular Concern of Food Insecurity, December 2021*, Situation Report, Jan. 11, 2022, pg. 2. <https://reliefweb.int/report/south-sudan/south-sudan-flooding-trends-counties-particular-concern-food-insecurity-december>.

⁵⁴ *Id.* at 1.

⁵⁵ Rep. of the Comm. on Human Rights in South Sudan, *supra* note 13, at 11.

⁵⁶ UN Human Rights Office of the High Commissioner, *Renewed Violence and Delayed Implementation of the Peace Agreement Severely Threaten Peace and Stability in South Sudan*, UN Experts Note, UNHCR Press Release, August 14, 2020.

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26167&LangID=E>.

⁵⁷ World Health Organization, *South Sudan – Strengthening Primary Health Care in Fragile Settings*, WHO Newsroom, May 20, 2021. <https://www.who.int/news-room/feature-stories/detail/south-sudan-2021>.

⁵⁸ UNOCHA, *South Sudan Humanitarian Needs Overview 2021*, Humanitarian Programme Cycle 2021, Jan. 2021, pg. 12.

https://www.ecoi.net/en/file/local/2045425/south_sudan_2021_humanitarian_needs_overview.pdf.

measles, water-borne diseases such as diarrhea and Hepatitis E virus, and vector-borne diseases like malaria and yellow fever,” in addition to the impact of the COVID-19 pandemic.⁵⁹

Economic Situation

According to the World Bank, South Sudan is facing “concurrent setbacks in the economy” due to rising poverty, food insecurity and a resurgence of conflict.⁶⁰ Moreover, falling global oil prices have also affected South Sudan’s oil revenues.⁶¹ South Sudan’s economy is heavily oil-dependent, with oil accounting for 90 percent of government revenue and nearly all exports.⁶² This situation has caused a “great percentage of South Sudanese people to lose their sources of livelihood and has left some communities facing catastrophic needs.”⁶³ Moreover, urgent and essentials measures to manage the COVID-19 pandemic, “worsened economic conditions, disrupting livelihoods and affecting vulnerable households’ access to markets, food and adequate income.”⁶⁴

Approximately 107 F-1 nonimmigrant students from South Sudan are enrolled in courses at SEVP-certified U.S. academic institutions as of January 13, 2022. Given the extent of the humanitarian crisis in South Sudan, affected students whose primary means of financial support comes from South Sudan may need to be exempt from the normal student employment requirements to continue their studies in the United States. The humanitarian crisis has made it unfeasible for many students to safely return to South

⁵⁹ World Health Organization, *Strengthening Public Health Surveillance And Response Using the Third Edition Integrated Disease Surveillance and Response Guidelines in South Sudan*, WHO Press Release, November 27, 2021. <https://reliefweb.int/report/south-sudan/strengthening-public-health-surveillance-and-response-using-third-edition>.

⁶⁰ The World Bank, *South Sudan Economic Update, June 2021: Pathways to Sustainable Food Security*, OCHA Services, July 2, 2021. <https://reliefweb.int/report/south-sudan/south-sudan-economic-update-june-2021-pathways-sustainable-food-security>.

⁶¹ *Id.*

⁶² South Sudan Humanitarian Needs Overview 2021 *supra*, pg. 12.

⁶³ South Sudan Economic Update, June 2021: Pathways to Sustainable Food Security, *supra*.

⁶⁴ Food and Agriculture Organization of the United Nations, *South Sudan Humanitarian Response Plan*, OCHA Services, May 2021, pg. 2. <https://reliefweb.int/report/south-sudan/south-sudan-humanitarian-response-plan-2021>.

Sudan for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses.

What is the minimum course load requirement to maintain valid F-1 nonimmigrant status under this notice?

Undergraduate F-1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term.⁶⁵ A graduate-level F-1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v). Nothing in this notice affects the applicability of other minimum course load requirements set by the academic institution.

In addition, an F-1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless the course of study is in a language study program.⁶⁶ *See* 8 CFR 214.2(f)(6)(i)(G). An F-1 nonimmigrant student attending an approved private school in kindergarten through grade 12 or public school in grades 9 through 12 must maintain “class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,” as required under 8 CFR

⁶⁵ Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B).

⁶⁶ DHS considers students who are compliant with ICE coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such COVID-19 guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, <https://www.ice.gov/coronavirus> (last visited Feb. 2022).

214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

May an eligible F-1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. An F-1 nonimmigrant student who is a South Sudan citizen, regardless of country of birth (or an individual having no nationality who last habitually resided in South Sudan), who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i)(A) and (B) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F-1 nonimmigrant student may benefit without having to apply for a new Form I-766, Employment Authorization Document (EAD). To benefit from this notice, the F-1 nonimmigrant student must request that the designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record, which the student's Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status, will reflect:

Approved for more than 20 hours per week of [DSO must insert "on-campus" or "off-campus," depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently authorized for off-campus employment), or the end date of this notice, whichever date comes first].

Must the F-1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her “full course of study”?

No. DHS will deem an F-1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a “full course of study”⁶⁷ for the duration of the student’s employment authorization, provided that a qualifying undergraduate level F-1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F-1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term.⁶⁸ *See* 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F-1 nonimmigrant status.

Will an F-2 dependent (spouse or minor child) of an F-1 nonimmigrant student covered by this notice be eligible to apply for employment authorization?

No. An F-2 spouse or minor child of an F-1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F-2 nonimmigrant status. *See* 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F-1 visa and makes an initial entry in the United States after the effective date of this notice in the Federal Register?

⁶⁷ *See* 8 CFR 214.2(f)(6).

⁶⁸ Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B).

No. The suspension of the applicability of the standard regulatory requirements only applies to F-1 nonimmigrant students who meet the following conditions:

(1) Are citizens of South Sudan, regardless of country of birth (or individuals having no nationality who last habitually resided in South Sudan);

(2) Were lawfully present in the United States in F-1 nonimmigrant status under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i), on the date of publication of this notice;

(3) Are enrolled in an academic institution that is SEVP-certified for enrollment of F-1 nonimmigrant students;

(4) Are maintaining F-1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the humanitarian crisis in South Sudan.

An F-1 nonimmigrant student who does not meet all these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the humanitarian crisis in South Sudan).

Does this notice apply to a continuing F-1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register and who needs to obtain a new F-1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such an F-1 nonimmigrant student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I-20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F-1 visa in order to continue their educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F-1 status?

Yes. However, this notice does not by itself reduce the required course load for F-1 nonimmigrant students from South Sudan enrolled in private kindergarten through grade 12, or public-school grades 9 through 12. Such students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation. *See* 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F-1 nonimmigrant students regardless of educational level. Eligible F-1 nonimmigrant students from South Sudan enrolled in an elementary school, middle school, or high school may benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session. Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

On-Campus Employment Authorization

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F-1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F-1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible F-1 nonimmigrant student has authorization to work more than 20 hours per week while school is in session, if the DSO has entered the following statement in the remarks field of the SEVIS student record, which will be reflected on the student's Form I-20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].

To obtain on-campus employment authorization, the F-1 nonimmigrant student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the humanitarian crisis in South Sudan. An F-1 nonimmigrant student authorized by the student's DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time employment on-campus when school is not in session or during school vacations apply. *See* 8 CFR 214.2(f)(9)(i).

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain their F-1 nonimmigrant status?

Yes. DHS will deem an F-1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a "full course of study"⁶⁹ for the purpose of maintaining their F-1 nonimmigrant student status for the duration of the on-campus employment if the student satisfies the minimum course load requirement described in this notice. *See* 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school officials allow

⁶⁹ *See* 8 CFR 214.2(f)(6).

an F-1 nonimmigrant student to take a reduced course load if the reduction would not meet the school's minimum course load requirement for continued enrollment.⁷⁰

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F-1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

- (a) The requirement that a student must have been in F-1 nonimmigrant status for one full academic year in order to be eligible for off-campus employment;
- (b) The requirement that an F-1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;
- (c) The requirement that limits an F-1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while school is in session; and
- (d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

Will an F-1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F-1 nonimmigrant status?

Yes. DHS will deem an F-1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a “full course of

⁷⁰ Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

study”⁷¹ for the purpose of maintaining F-1 nonimmigrant student status for the duration of the student’s employment authorization if the student satisfies the minimum course load requirement described in this notice. *See* 8 CFR 214.2(f)(6)(i)(F). However, the authorization for reduced course load is solely for DHS purposes of determining valid F-1 nonimmigrant status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.⁷²

How may an eligible F-1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F-1 nonimmigrant student must file a Form I-765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the humanitarian crisis in South Sudan. Filing instructions are located at: <http://www.uscis.gov/i-765>.

Fee considerations. Submission of a Form I-765 currently requires payment of a \$410 fee. An applicant who is unable to pay the fee may submit a completed Form I-912, Request for Fee Waiver, along with the Form I-765, Application for Employment Authorization. *See* www.uscis.gov/feewaiver. The submission must include an explanation about why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c).

Supporting documentation. An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to the DSO:

- (1) This employment is necessary to avoid severe economic hardship; and

⁷¹ *See* 8 CFR 214.2(f)(6).

⁷² Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

(2) The hardship is a direct result of the humanitarian crisis in South Sudan.

If the DSO agrees that the F-1 nonimmigrant student should receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on the student's Form I-20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I-766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].

The F-1 nonimmigrant student must then file the properly endorsed Form I-20 and Form I-765, according to the instructions for the Form I-765. The F-1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that a F-1 nonimmigrant student be approved for Special Student Relief, the DSO certifies that:

(a) The F-1 nonimmigrant student is in good academic standing and is carrying a “full course of study”⁷³ at the time of the request for employment authorization;

(b) The F-1 nonimmigrant student is a South Sudan citizen, regardless of country of birth (or an individual having no nationality who last habitually resided in South Sudan), and is experiencing severe economic hardship as a direct result of the humanitarian crisis in South Sudan, as documented on the Form I-20;

(c) The F-1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of 8 CFR 214.2(f)(5)(v) and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three

⁷³ See 8 CFR 214.2(f)(6).

semester or quarter hours of instruction per academic term if the student is at the graduate level; and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the humanitarian crisis in South Sudan.

Processing. To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F-1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes all of the following documents:

(1) A completed Form I-765;

(2) The required fee or properly documented fee waiver request, as described in 8 CFR 103.7(c); and

(3) A signed and dated copy of the student's Form I-20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase "SPECIAL STUDENT RELIEF."

Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I-765, USCIS will send the student a Form I-766 EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

Temporary Protected Status Considerations

Can an F-1 nonimmigrant student apply for temporary protected status (TPS) and for benefits under this notice at the same time?

Yes. An F-1 nonimmigrant student who has not yet applied for TPS or other relief that reduce the student's course load per term and permits an increased number of work hours per week, such as Special Student Relief,⁷⁴ under this notice has two options.

Under the first option, the nonimmigrant student may file the TPS application according to the instructions in the USCIS notice designating South Sudan for TPS published elsewhere in this issue of the **Federal Register**. All TPS applicants must file a Form I-821, Application for Temporary Protected Status with the appropriate fee (or request a fee waiver). Although not required to do so, if an F-1 nonimmigrant student wants to obtain a new EAD based on their TPS application that is valid through November 3, 2023, and to be eligible for automatic EAD extensions that may be available to certain EADs with an A-12 or C-19 category code, they must file Form I-765 and pay the Form I-765 fee (or submit a Request for a Fee Waiver (Form I-912)). After receiving the TPS-related EAD, an F-1 nonimmigrant student may request that the student's DSO make the required entry in SEVIS, issue an updated Form I-20, as described in this notice, and notate that the nonimmigrant student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD. So long as the nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate the student's nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains the student's TPS, then the student maintains F-1 nonimmigrant status and TPS concurrently.

⁷⁴ See DHS Study in the States, Special Student Relief, <https://studyinthestates.dhs.gov/students/special-student-relief> (last visited Feb. 2022).

Under the second option, the nonimmigrant student may apply for an EAD under Special Student Relief by filing the Form I-765 with the location specified in the filing instructions. At the same time, the F-1 nonimmigrant student may file a separate TPS application but must submit the TPS application according to the instructions provided in the Federal Register Notice designating South Sudan for TPS. The F-1 nonimmigrant student already has applied for employment authorization under Special Student Relief, and may choose not to submit the Form I-765 as part of the TPS application. However, some nonimmigrant students may wish to obtain a TPS EAD in light of automatic extensions that may be available to certain EADs with an A-12 or C-19 category code. The nonimmigrant student should check the appropriate box when filling out Form I-821 to indicate whether a TPS-related EAD is being requested. Again, so long as the nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the nonimmigrant will be able to maintain compliance requirements for F-1 nonimmigrant student status while having TPS.

When a student applies simultaneously for TPS and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F-1 nonimmigrant student must maintain normal course load requirements for a “full course of study”⁷⁵ unless or until the nonimmigrant student receives employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (e.g., clock hours for language students). Once approved for Special Student Relief employment authorization, the F-1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum

⁷⁵ See 8 CFR 214.2(f)(6).

requirements (with a minimum of six semester or quarter credit hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter credit hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), (f)(6), and (f)(9)(i) and (ii).

How does a student who has received a TPS-related employment authorization document then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. The F-1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the humanitarian crisis in South Sudan. The DSO will then verify and update the student's record in SEVIS to enable the F-1 nonimmigrant student with TPS to reduce the course load without any further action or application. No other EAD needs to be issued for the F-1 nonimmigrant student to have employment authorization.

Can a noncitizen who has been granted TPS apply for reinstatement of F-1 nonimmigrant student status after the noncitizen's F-1 nonimmigrant student status has lapsed?

Yes. Current regulations permit certain students who fall out of F-1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision might apply to students who worked on a TPS-related EAD or dropped their course load before publication of this notice, and therefore fell out of student status. These students must satisfy the criteria set forth in the student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief until November 3, 2023⁷⁶ to eligible F-1 nonimmigrant students. DHS will continue to monitor the situation in South Sudan. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the Federal Register.

Paperwork Reduction Act (PRA)

An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship resulting from the humanitarian crisis in South Sudan must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653-0038.

This notice also allows an eligible F-1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

To apply for employment authorization, certain F-1 nonimmigrant students must complete and submit a currently approved Form I-765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I-765, consistent with the PRA (OMB Control No. 1615-0040). Although

⁷⁶ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of November 3, 2023, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. See ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Feb. 2022).

there will be a slight increase in the number of Form I-765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I-765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro Mayorkas,

Secretary,

U.S. Department of Homeland Security.

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